

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

In the Matter of License 11091 (Application 24177)

Keith and Georgia McCammon

**ORDER APPROVING REQUEST TO SET ASIDE ORDER REVOKING
LICENSE AND APPROVING REQUEST TO REINSTATE LICENSE**

SOURCE: Unnamed Stream tributary to Hamlin Gulch thence Scott River

COUNTY: Siskiyou

BY THE CHIEF OF THE DIVISION OF WATER RIGHTS:

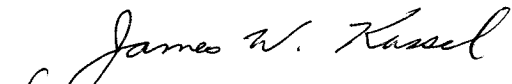
WHEREAS:

1. Effective January 1, 2004, the State Water Resources Control Board (State Water Board), Division of Water Rights (Division), began assessing an annual water right fee to each water right permit and license holder, pursuant to Senate Bill 1049 and Resolution No. 2003-0077.
2. On November 1, 2004, Georgia McCammon signed a revocation request form on behalf of Keith and Georgia McCammon (Licensees) requesting that the Division revoke License 11091 (Application 24177).
3. On March 3, 2006, the Division issued an order revoking License 11091 pursuant to Licensee's request.
4. On April 18, 2006, the Division received a letter from the Licensees requesting that the Division set aside the revocation and reinstate the license because they determined that they had unintentionally requested revocation.
5. California Water Code section 1675.2 provides: "In any case when a license is revoked without a hearing as provided in section 1675.1, the Permittee, within 90 days of the date of the order of revocation, may file with the Board a request to set aside the revocation, and the Board, for good cause shown, may reinstate the license." This authority is delegated to the Chief of the Division by Resolution No. 2002-0106, section 2.6.24.
6. Section 1675.2 of the Water Code has a similar effect to that of the Code of Civil Procedure section 473, which allows a court to relieve a party from a judgment, dismissal, order or other proceeding taken against him or her through his or her mistake, inadvertence, surprise, or excusable neglect. The question of good cause to reinstate the license does not reach the merits of the revocation. Rather, the Licensees must show why they failed to file a request for a hearing within the time specified by the order. (WRO 2002-08-EXEC at 2.)
7. The Licensees timely filed a request to set aside the order revoking License 11091.
8. The Division finds that the Licensees have shown good cause for not requesting a hearing.

Licensees inadvertently requested revocation solely in response to the fee assessment and waived the right to hearing because they did not understand the process and ramifications of the process.

Therefore it is ordered that the order revoking License 11091 dated March 3, 2006, is set aside.

STATE WATER RESOURCES CONTROL BOARD


for Victoria A. Whitney, Chief
Division of Water Rights

Dated:

JUN 01 2006



STATE OF CALIFORNIA
THE RESOURCES AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

License for Diversion and Use of Water

APPLICATION 24177

PERMIT 16761

LICENSE 11091

THIS IS TO CERTIFY, That

ELWIN A. SCHLUTER AND BILLIE SCHLUTER
STAR ROUTE, FORT JONES, CALIFORNIA 96032

HAVE *made proof as of* AUGUST 26, 1980 *(the date of inspection)*
to the satisfaction of the State Water Resources Control Board of a right to the use of the water of
AN UNNAMED STREAM IN SISKIYOU COUNTY

tributary to HAMLIN GULCH THENCE SCOTT RIVER THENCE KLAMATH RIVER

for the purpose of IRRIGATION, STOCKWATERING, FIRE PROTECTION AND RECREATIONAL USES
under Permit 16761 *of the Board and that the right to the use of this water has been perfected*
in accordance with the laws of California, the Regulations of the Board and the permit terms; that the
priority of this right dates from SEPTEMBER 12, 1972 *and that the amount of water to which*
this right is entitled and hereby confirmed is limited to the amount actually beneficially used for the stated
purposes and shall not exceed ELEVEN (11) ACRE-FEET PER ANNUM, TO BE COLLECTED FROM
NOVEMBER 1 OF EACH YEAR TO MARCH 31 OF THE SUCCEEDING YEAR. THE MAXIMUM WITH-
DRAWAL IN ANY ONE YEAR SHALL NOT EXCEED 7 ACRE-FEET.

THIS LICENSE DOES NOT AUTHORIZE COLLECTION OF WATER TO STORAGE OUTSIDE OF THE
SPECIFIED SEASON TO OFFSET EVAPORATION AND SEEPAGE LOSSES OR FOR ANY OTHER PURPOSE

THE POINT OF DIVERSION OF SUCH WATER IS LOCATED:

NORTH 1,400 FEET AND WEST 1,000 FEET FROM SE CORNER OF SECTION 8, T43N, R8W, MDB&M
BEING WITHIN NE1/4 OF SE1/4 OF SAID SECTION 8.

A DESCRIPTION OF LANDS OR THE PLACE WHERE
SUCH WATER IS PUT TO BENEFICIAL USE IS AS FOLLOWS:

STOCKWATERING, FIRE PROTECTION AND RECREATIONAL USES AT RESERVOIR WITHIN NE1/4 OF
SE1/4 OF SECTION 8, T43N, R8W, MDB&M AND IRRIGATION AS FOLLOWS:

6 ACRES WITHIN NW1/4 OF SE1/4 OF SECTION 8, T43N, R8W, MDB&M
2 ACRES WITHIN NE1/4 OF SE1/4 OF SECTION 8, T43N, R8W, MDB&M

THE QUANTITY OF WATER DIVERTED UNDER THIS LICENSE IS SUBJECT TO MODIFICATION BY THE STATE WATER RESOURCES CONTROL BOARD, IF, AFTER NOTICE TO THE LICENSEE AND AN OPPORTUNITY FOR HEARING, THE BOARD FINDS THAT SUCH MODIFICATION IS NECESSARY TO MEET WATER QUALITY OBJECTIVES IN WATER QUALITY CONTROL PLANS WHICH HAVE BEEN OR HEREAFTER MAY BE ESTABLISHED OR MODIFIED PURSUANT TO DIVISION 7 OF THE WATER CODE. NO ACTION WILL BE TAKEN PURSUANT TO THIS PARAGRAPH UNLESS THE BOARD FINDS THAT (1) ADEQUATE WASTE DISCHARGE REQUIREMENTS HAVE BEEN PRESCRIBED AND ARE IN EFFECT WITH RESPECT TO ALL WASTE DISCHARGES WHICH HAVE ANY SUBSTANTIAL EFFECT UPON WATER QUALITY IN THE AREA INVOLVED, AND (2) THE WATER QUALITY OBJECTIVES CANNOT BE ACHIEVED SOLELY THROUGH THE CONTROL OF WASTE DISCHARGES.

Licensee shall allow representatives of the Board and other parties, as may be authorized from time to time by the Board, reasonable access to project works to determine compliance with the terms of this license.

Pursuant to California Water Code Sections 100 and 275, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

This continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this license with a view to minimizing waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement such programs as (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time to time by the Board.

The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.

This license is granted and licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the Board.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for